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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/808,650 | 09/27/2006 | Jeffrey L. Peyton | A-69185/MSS | 4939 |

FLEHR HOHBACH TEST
ALBRITTON & HERBERT LLP
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San Francisco, CA 94111

| EXAMINER | |
|-----------------------|--------------|
| OUELLETTE, JONATHAN P | |
| ART UNIT | PAPER NUMBER |
| 3629 | |

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,650

Applicant(s)

PEYTON, JEFFREY L.

Examiner

Jonathan Ouellette

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-13,16-18,20,21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-13,16-18,20,21 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Claims 2-4, 14-15, 19, and 22 have been cancelled; therefore Claims 1, 5-13, 16-18, 20, 21, and 23 are currently pending in application 09/808,650.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 5-13, 16-18, 20, 21, and 23 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention (Puppetools: www.puppetools.com, retrieved from Internet Archive Wayback Machine <www.archive.org>, date range: 12/22/1997- 3/1/2000).**
3. As per **independent Claims 1, 7, 16 and 23**, Puppetools discloses the elements of the claimed neurological development invention, such as: providing one or more images in a computer environment, the one or more images being provided by content providers (the web site provides the images – and is a content provider; **users can also submit images for use by others**), a remote site user (internet user) downloading selected of said one or more images to provide said images in paper form (printing); forming said paper form to create a puppet representative of said image by affixing a hinge to the paper form [a hinge attached or integrated to said paper form, said hinge being adapted for hand manipulation to create a hand actuated puppet representative of said one or more images] (pgs.9-16); and interacting with an on-line training laboratory (online training course) on

the puppet site (pg.7, pgs.17-21), the training laboratory comprising a plurality of developmental segments having multimedia audio and video files containing content which facilitates learning and communication in connection with play with the puppet (further disclosed in description of site under construction, pg. 4), wherein the method facilitates learning and communication by a remote site user with other remote site users and the training laboratory (pg.4, www.puppettools.com discloses the concept of a online working laboratory where a user can visit, observe, or participate; this concept is equivalent to working with other remote users as described in the specification of the instant invention); and informational sections disclose the scientific reasoning behind the puppetry play (newly referenced section of www.puppettools.com).

4. As per the remaining dependent claims 5-6, 8-13, 17-18, 20 and 21, Puppetools discloses all the claimed elements, to include printing puppets and offering detailed play instruction (www.puppettools.com).

Response to Arguments

5. Applicant's arguments filed 9/19/2006, with respect to Claims 1, 5-13, 16-18, 20, 21, and 23, have been fully considered but they are not persuasive. The rejection will remain as **FINAL**, based on the cited prior art.
6. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. The Applicant makes the argument that the prior art fails to teach or suggest facilitating learning and communication among remote site users together.
8. However, pg.12 of the specification describes the remote user interaction as a learning laboratory, which is also described by www.puppettools.com (pg.4, online working laboratory – suggests interactive group environment). The prior art does not need to teach a working model of the instant invention, it must just disclose the inventive concept.
9. Furthermore, puppettools.com discloses the ability of remote users to interact through interaction with the website (pg.6, concept log)
10. The Applicant makes the argument that the prior art fails to teach or suggest where content providers provide images for hinged puppets.
11. However, www.puppettools.com provides the obtained puppet images (equivalent to a content provider).

Conclusion

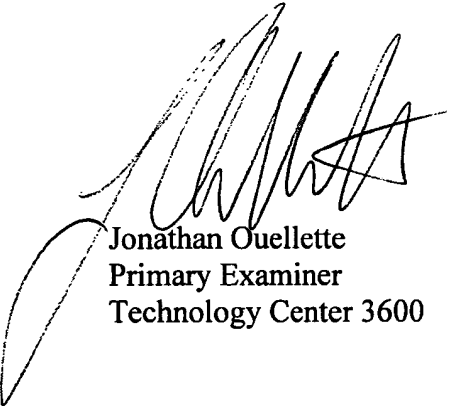
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-

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6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.
14. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

September 22, 2006



Jonathan Ouellette
Primary Examiner
Technology Center 3600